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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOSEPH HOROWITZ,)	CASE NO. 4:17-CV-02898-KAW
)	
Plaintiff,)	STIPULATION AND PROPOSED ORDER
)	CONTINUING ALL CASE MANAGEMENT
v.)	DATES BY SIXTY DAYS
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Pursuant to Local Civil Rules 6-1 and 6-2, defendant United States of America (“Defendant”) and plaintiff Joseph Horowitz (“Plaintiff”), by and through their respective counsel, hereby jointly and respectfully request that the Court continue all case management dates, including the last day to mediate, by sixty days for the reasons set forth below.

1. This is a Federal Tort Claims Act case arising out of a motorcycle versus postal vehicle accident. Defendant contests liability. Plaintiff alleges that he sustained a traumatic brain injury as a result of that accident. Plaintiff demanded \$10,000,000.00 in his administrative tort claim. A trial is set for February 4, 2019.
2. On June 19, 2018, this case was transferred to AUSA James A. Scharf, who promptly filed a Notice of Substitution of Counsel.

STIPULATION AND [PROPOSED] ORDER CONTINUING ALL CASE MANAGEMENT DATES BY SIXTY DAYS
4:17-cv-02898-KAW

- 1 3. AUSA Scharf has another case scheduled for trial in the Northern District of California on
2 the very same day that this case is set for trial.
- 3 4. Upon receiving and reviewing the file, AUSA Scharf promptly noticed Plaintiff's deposition
4 for July 20, 2018, retained a medical expert, requested Plaintiff to submit to a neurologic
5 IME on July 23, 2018, and requested Plaintiff to produce his motorcycle, helmet and
6 motorcycle gear for inspection and photographing on August 17, 2018. Plaintiff has not yet
7 confirmed these dates.
- 8 5. AUSA Scharf is also in the process of causing subpoenas to be issued for Plaintiff's medical
9 records and bills based on the medical records Plaintiff produced in discovery. AUSA Scharf
10 has requested but not received an authorization signed by Plaintiff for the release of his
11 medical records.
- 12 6. A dispute has arisen regarding the sufficiency of Plaintiff's responses to Defendant's first set
13 of interrogatories. AUSA Scharf and Mr. Roubinian plan to speak on the telephone on June
14 25, 2018 with the goal of resolving this discovery dispute without Court assistance so that
15 Plaintiff's July 20, 2018 deposition can go forward as noticed.
- 16 7. AUSA Scharf will be on annual leave July 4 – 6, 2018 and July 23 – 25.
- 17 8. The postal driver will be on vacation and out of the country July 11 – August 6, 2018. He
18 will voluntarily submit to a deposition after his return to the United States.
- 19 9. Despite his best efforts to get this case moving forward toward a just resolution, AUSA
20 Scharf does not believe that he will be able to work up the liability and damages issues in this
21 case prior to August 10, 2018, which is the date fact discovery closes and expert disclosures
22 and reports are currently due.
- 23 10. To provide Defendant sufficient time to investigate Plaintiff's disputed liability claim and
24 significant brain injury claim, so that the mediation will be meaningful and productive,
25 AUSA Scharf requested and received from Mr. Roubinian a stipulation to push back all case
26 management dates, including the last day to mediate, by sixty days, subject to the Court's
27 consent.

1 For these reasons, the parties jointly and respectfully request that the Court push back all case
2 management dates, including the last day to mediate, by sixty days, so that the new schedule would be
3 as follows:

- 4 ▪ October 12, 2018: Fact discovery closes/expert disclosures and reports due
- 5 ▪ November 9, 2018: Rebuttal experts and report due
- 6 ▪ December 7, 2018: Last day to mediate
- 7 ▪ December 11, 2018: JCMS due
- 8 ▪ December 18, 2018: Further CMC
- 9 ▪ December 28, 2018: Expert discovery closes
- 10 ▪ January 17, 2019: Last day to hear MSJ
- 11 ▪ March 20, 2019: PTC
- 12 ▪ April 1, 2019: Trial

13 Respectfully submitted,

14 ALEX G. TSE
15 Acting United States Attorney

16 Dated: June 22, 2018

17 /s/_____
18 JAMES A. SCHARF
19 Assistant United States Attorney
20 Attorney for United States of America

21 Respectfully submitted,

22 Dated: June 22, 2018

23 /s/_____
24 LEON ROUBINIAN
25 Attorney for Plaintiff


1 ~~PROPOSED~~ ORDER

2 Pursuant to the stipulation of the parties, and for good cause, all case management dates,
3 including the last day to mediate, will be continued for sixty days. The new case management schedule
4 is as follows:

- | | | |
|----|----------------------|--|
| 5 | ▪ October 12, 2018: | Fact discovery closes/expert disclosures and reports due |
| 6 | ▪ November 9, 2018: | Rebuttal experts and report due |
| 7 | ▪ December 7, 2018: | Last day to mediate |
| 8 | ▪ December 11, 2018: | JCMS due |
| 9 | ▪ December 18, 2018: | Further CMC |
| 10 | ▪ December 28, 2018: | Expert discovery closes |
| | ▪ January 17, 2019: | Last day to hear MSJ |
| | ▪ March 20, 2019: | PTC |
| | ▪ April 1, 2019: | Trial |

11 IT IS SO ORDERED.

12 Date: 6/29/18

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14 HON. KANDIS A. WESTMORE
15 United States Magistrate Judge
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